

From: <Jherrlaw@aol.com>
To: <commentletters@waterboards.ca.gov>
Date: Mon, Apr 23, 2007 11:58 AM
Subject: Water Right Enforcement Workshop

6/19/07 BdMtg Item 9
WR Enforcement
Deadline: 6/6/07 Noon

*SOUTH DELTA WATER AGENCY
4255 PACIFIC AVENUE, SUITE 2
STOCKTON, CALIFORNIA 95207
TELEPHONE (209) 956-0150
FAX (209) 956-0154

Directors:

E-MAIL

Jherrlaw@aol.com_ (mailto:Jherrlaw@aol.com)

Jerry Robinson, Chairman

Engineer:

Robert K. Ferguson, Vice-Chairman

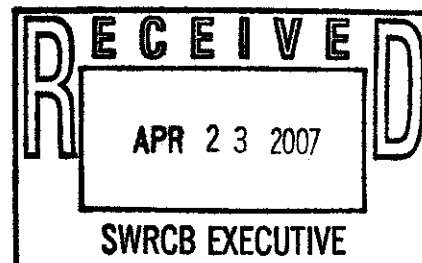
Alex Hildebrand

Natalino Bacchetti, Secretary Counsel & Manager:

Jack Alvarez John Herrick

Mary Hildebrand

April 23, 2007



Ms. Song Her, Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

Re: Water Right Enforcement Workshop

Dear Ms. Her:

On behalf of the South Delta Water Agency, I would like to submit the following comments on the above referenced matter.

With regard to the five questions presented in the Notice:

1. Should the SWRCB continue to investigate compliance on a watershed basis? We are not aware of how the SWRCB allocates its resources among the various watersheds. However, its resources should be targeted at potential violations which have the greatest impact on the total available supply, not on small impacts without measurable impacts. For examples, the SWRCB should regularly investigate storage behind dams, inflows and outflows from dams, and export operations as those activities affect the largest amount of water. One might expect that dam operations and export pumping are sometimes done contrary to permit limitations. These violations would assumedly affect a much larger amount of water than say an illegal pumping of one cfs somewhere in the system.

2. Should the Board provide an opportunity for voluntary compliance before enforcement

actions are taken? If the violation is reasonably explained as a mistake or error, the permittee should be allowed an opportunity to correct the mistake. If however the violation is re-occurring or clearly wrongful, enforcement action should be taken.

3. Should the Board initiate enforcement action against existing applicants who are diverting without authorization? This question suggests a narrow set of circumstances whereby there is an application to divert water but as yet no permit. In such instances enforcement should be initiated unless the applicant can reasonable show it is diverting under some other right or authorization.

4. How should the Board prioritize violations for enforcement? Same answer as in No. 1

Ms. Her

April 23, 2007

Page two

above. In addition, the magnitude of the violation in relation to the stream or channel affected should be taken into consideration. For example, a diversion during high flows has less effect on the available supply than does one during low flows.

5. How should an ACL be calculated? SDWA has no input on this issue at this time.

Finally, the Board should include in its evaluation of potential violations other factors.

For example, exports from the Delta are done pursuant to permits for dams, export pumps, and other facilities. If the operation of these facilities causes third party impacts, these impacts should also be the subject of enforcement actions. Certainly the permits to export water do not include the right to lower water levels in the channels such that no other beneficial use can occur.

At this time, export operations de-water some channels so that no fish can enter/leave the channel, no boats or fisherman can be in the channel and no agricultural diversions can be made from the channel.

Please feel free to contact me if you have any questions.

Very truly yours,

JOHN HERRICK

John Herrick, Esq.
4255 Pacific Avenue, Suite 2
Stockton, CA 95207
(209) 956-0150
(209) 956-0154 Fax

***** See what's free at <http://www.aol.com>.